



County Road Association
OF MICHIGAN



December 4, 2017

Dear Representatives:

The County Road Association, Michigan Townships Association, Michigan Association of Counties, Michigan Association of County Drain Commissioners and the Michigan Municipal League have reviewed HB 5098 (H-2), and we respectfully continue to oppose the bill. The permitting concept and processes, including relocation, should be consistent regardless of the industry requesting access into the right-of-way (ROW).

The permit process serves multiple purposes for permitting agencies, the motoring public, the applicant, the applicant's employees or their subcontractors and the adjacent property owner. These include:

- Protecting the integrity and functionality of existing infrastructure;
- avoiding other utility service disruptions;
- providing instructions for traffic control (signs, signals, barricades, etc.);
- protecting the motoring public from service vehicles parked or persons working in the ROW from injury or death;
- ensuring appropriate business and vehicle insurance coverages;
- indemnifying permitting agencies from lawsuits because the applicant failed to adhere to the permit requirements;
- verifying proper location and installation depth of a facility;
- avoiding the disruption of contamination in the ROW via DEQ or the permitting agency;
- notifying MISS DIG of proposed excavation and;
- confirming security to repair damage to the infrastructure.

Section 3 requires that each city, village, township, or county or state transportation department provide a detailed notification to entities on the notification list created under subsection 8 regarding "specific rights-of-way affected, including the beginning and ending points, affected cross streets and structures, and the planned start date of the project". The proposed change allows MDOT to satisfy the notification requirements by sending each entity on the list an electronic copy of its most recently adopted 5-year transportation plan. Local agencies are not afforded the same notification opportunities, but should be able to satisfy the notice requirements by furnishing similar planning documents.

Subsection 8 would require the Michigan Public Service Commission to create a notification list for use by only those providers that hold licenses under the Michigan Telecommunications Act and the Uniform Video Services Local Franchise Act. It assumes every company that has wireless equipment use providing a service unregulated by the state also has a license under one of the two acts. It is possible that an entity not licensed under either act can have wireless facilities in a public road ROW as those services may not be covered. Additionally, under the substitute, these entities may—but are not required to—have their name included on the list by submitting a list of counties where the entity has facilities located in a public ROW and contact information. The entities are not required to identify the city, village or township in which their facilities are located, the type of equipment, or identify the ROW or precise location within the ROW where facilities are located.

Waiving permit fees or prohibiting a permitting agency from requiring a survey or a study unreasonably burdens the permitting agency and its taxpayers and provides preference to a select industry within the ROW.

The bill also does not provide for penalties when an entity does not comply with the terms of the permit. Further, while the substitution does allow for County Road Commissioner to recover the actual costs associated with inspections, it does not allow other governmental bodies to recover these costs.

We remain concerned that each waiver of fees and lengthy notice requirements undermine the long-established integrity and use of the public ROW by utilities and other entities licensed under the Michigan Telecommunications Act and the Uniform Video Services Local Franchise Act. This legislation may be viewed as creating a limited property right when none currently exists.

We ask you to oppose HB 5098 to ensure the integrity and functionality of the ROW and consistent treatment for all ROW users.

Sincerely,



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